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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,997	07/08/2003	Terrence Robert Davis	2A0327.USD	1045

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IMI Cornelius, Inc.
One Cornelius Place
Anoka, MN 55303-6234

EXAMINER

NICOLAS, FREDERICK C

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,997

Applicant(s)

DAVIS, TERRENCE ROBERT

Examiner

Frederick C. Nicolas

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10, 11 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 9, 12, 13, 19 and 20 is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species C: Figures 9-12, claims 1-9, 12-17, 19-20 in the reply filed on 11/4/2005 is acknowledged. The traversal is on the ground(s) that searching any of the versions of Species A-C, one could and should come across art relevant to the other species. This is not found persuasive because the three species of claimed invention are clearly not related in terms of their modes of operation. For example, in the elected species of Figures 9-12, the dispensing head requires air passages (241, 241a and 241b). On the other hand, in the species of Figures 1-5, the dispensing head does not require any air passage. Clearly, there exist unrelated features among the species of claimed invention, which will require a separate search area for each species and thus, one would not come across art relevant to the other species

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 10-11, 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/4/2005.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. 4,266,726.

Brown et al. disclose a dispense head (11) comprising a plurality of inlets (13, 123, 15, 85, 103) for connection to separate beverage supply lines, each inlet communicating with a dispense valve (17, 25) opening to a common dispense nozzle (119), each inlet opens to an inlet section of the dispense nozzle via a respective dispense valve and the inlet sections merge into a common outlet section as seen in Figure 3, a lower flow is provided at the start of the dispense and/or at the end of the dispense by opening/closing the dispense valves at different times during the dispense (col. 4, ll. 1-50), the inlet sections are inclined relative to the outlet section and converge to merge smoothly into the outlet section avoiding sudden changes in the direction of flow as seen in Figure 3, the dispensing valves are on/off solenoid valves (19, 27), a control unit (125).

5. Claims 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Pirker et al. 6,056,208.

Pirker et al. disclose a dispense head (4) comprising an inlet (2) for connection to a beverage supply line (col. 2, ll. 61-67), the inlet communicating with a dispense valve opening to a dispense nozzle (6) (col. 2, ll. 61-67), means for draining the dispense nozzle downstream of the dispense valve when the dispense valve is closed (col. 3, ll. 1-58).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. 4,266,726 in view of Greenfield, Jr. 4,651,862.

Brown et al. have taught all the features of the claimed invention except that means is provided for draining the dispensing nozzle. Greenfield, Jr. teaches the use of a means (102) for draining a dispensing nozzle (96).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the means (102) of Greenfield, Jr. onto the dispensing nozzle of Brown et al., in order to provide an anti-drip feature that, due to surface tension of the product will prevent dripping after the solenoid valve has closed, as taught by Greenfield, Jr. in (col. 8, ll. 22-25).

Allowable Subject Matter

8. Claims 9,12-13,19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. King 2,746,641, Nakayama et al. 5,033,648, Takahashi et al.

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4,960,228, McCann 3,396,871, Bencic 3,727,844, Trewhella 4,535,917, Rudick 4,708,266, Heyes 6,450,369, Henry et al. 6,390,662, Metzger 2,934,243, Tracy 4,218,014, Yuza 3,349,968, Jones et al. 5,881,917, Fox et al. 4,676,401, Credle, Jr. et al. 4,966,306, Vogel et al. 5,607,083 and Austin, deceased et al. 4,932,564 disclose other types of dispensing head.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
January 20, 2006


Frederick C. Nicolas
Primary Examiner
Art Unit 3754